City of Rochester

Department of Law
City Hall Room 400A, 30 Church Street
Rochester, New York 14614-1295
www.cityofrochester.gov

Spencer L. Ash
Municipal Attorney

To: The Honorable Charles J. Siragusa
Date: April 8, 2016
Re: Baker v. City of Rochester, No. 13-CV-6181-CJS-MWP

LETTER MEMORANDUM

Fruit of the Poisonous Tree

The Court posed the question as to whether the "Fruit of the poisonous tree" doctrine applied in civil cases, wherein individual causes of actions are asserted and evaluated as stand-alone claims. It is clear from a review of the case law that this exclusionary, criminal law doctrine is inapplicable in civil matter. *Townes v. City of New York*, 176 F.3d 138, 145. "The exclusionary rule does not preclude the admission of illegally obtained evidence in civil proceedings, and thus, evidence suppressed in an underlying criminal matter may be admitted in a civil case, provide probable cause for an arrest, and thereby mandate dismissal of a claim for which probable cause is a complete defense." *Martinez v City of Schenectady*, 97 NY2d 78, 85 [2001]; *Townes v City of New York*, 176 F3d 138,149 [2d Cir 1999). *United States v. Calandra*, 414 U.S. 338, 348 (1974). The Supreme Court has refused to extend the exclusionary rule to non-criminal contexts. *United States v. Janis*, 428 U.S. 433, 454 (1976).

Therefore, it is clear from the above-referenced case law that the inapplicability of the exclusionary rule in civil cases is well established. "In a § 1983 suit, constitutionally invalid police conduct that by itself causes little or no harm is assessed on ordinary principles of tort causation and entails little or nominal damages. The fruit of the poisonous tree doctrine is not available to elongate the chain of causation." *Townes* at 146. An arrest pursuant to a search and seizure, lawful or otherwise, must be evaluated on its own merit and pursuant to a probable cause standard.

False Arrest

Pursuant to N.Y. Criminal Procedure Law § 140.10(1), under which this claim must be evaluated, a police officer has probable cause to make an arrest for:

(a) Any offense when he has reasonable cause to believe that such person has committed such offense in his presence; and

(b) A crime when he has reasonable cause to believe that such person has committed such crime, whether in his presence or otherwise.

“The existence of probable cause to arrest constitutes justification and is **a complete defense to an action for false arrest**, whether that action is brought under state law or under § 1983.” *Zanghi v. Incorporated Village of Old Brookville,* 752 F.2d 42, 45 (2d Cir. 1985). [Emphasis added]. An arrest predicated on a police officer’s discovery of drugs and weapons in a home establishes probable cause. Probable cause to arrest necessarily defeats Plaintiffs’ causes of action for false arrest and false imprisonment. “Under New York law, the elements of a false imprisonment claim are: (1) the defendant intended to confine [the plaintiff], (2) the plaintiff was conscious of the confinement, (3) the plaintiff did not consent to the confinement and (4) the confinement was not otherwise privileged." *Weyant v. Okst*, 101 F.3d 845, 853 (2d Cir.1996).

Moreover, “[E]ven if there was no probable cause to arrest, a police officer may nonetheless be immune from a claim of false arrest under the doctrine of qualified immunity if either it was objectively reasonable for the officer to believe that probable cause existed, or officers of reasonable competence could disagree on whether probable cause test was met. *Weyan v. Okst*, 101 F.3d at 857-58 (2d. Cir. 1996).

For these reasons Plaintiffs’ false arrest and false imprisonment claims cannot succeed as a matter of law.

Respectfully Submitted,

s/Spencer L. Ash